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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,227	09/08/2003	Soichiro Ogawa	50340-156	1064

7590 10/25/2010
McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

ECHELMMEYER, ALIX ELIZABETH

ART UNIT	PAPER NUMBER
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1729

MAIL DATE	DELIVERY MODE
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10/25/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/656,227</p>	<p>Applicant(s) OGAWA, SOICHIRO</p>	
	<p>Examiner Alix Elizabeth Echelmeyer</p>	<p>Art Unit 1729</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Ula C Ruddock/
Supervisory Patent Examiner, Art Unit 1795

Continuation of 11. does NOT place the application in condition for allowance because: the arguments are not convincing.

Applicant, beginning on page 5 of the Remarks filed October 15, 2010, argues that the combination of Iwamura with Sugita et al. and Tanaka et al. does not teach the claimed invention. The examiner disagrees.

With regard to Applicant's arguments that Iwamura is not analogous art, Applicant is directed to the Final Rejection mailed July 15, 2010, specifically page 8. Also, it is noted that Applicant stated that "Iwamura is not reasonably pertinent to improving the supporting structure of a vehicle-mounted fuel cell stack." While this is true, it would be within the ordinary level of skill in the art to use the teachings of Iwamura to improve the case of Sugita et al. in view of Tanaka et al.

As for Applicant's arguments, beginning at the bottom of page 5, that Iwamura does not disclose the stacking direction, Applicant is reminded that Iwamura is used IN COMBINATION with Sugita et al. and Tanaka et al., which do clearly teach the stacking direction. The teachings of Iwamura relied upon in the rejection are those of the through bolt in a case.

At the top of page 6, Applicant argues that Iwamura does not disclose both end of the bolt are located exterior to the case. The examiner disagrees. First, Iwamura call the bolt a through bolt (column 2 line 63). Second, it is a bolt, not a screw, and therefore inherently must penetrate through the case to be fastened with nuts on both ends-otherwise, the bolt would come out of the plate. Third, the bolt is described as going through both sides of a plate (Figure 2; column 7 lines 37-41).

As to Applicant's arguments that Iwamura does not disclose both claimed bolts, Applicant is reminded that the rejection is over Sugita et al. in view of Tanaka et al. and Iwamura, with Iwamura being relied upon to teach a through bolt in the case, with other limitations found in the base references.

Regarding Applicant's arguments on the middle of page 7 that the examiner has used hindsight reasoning, Applicant is directed to the Final Rejection mailed July 15, 2010, specifically pages 7-8.

On pages 8-9, Applicant continues to argue that Iwamura is not analogous art to Sugita et al. and Tanaka et al. The examiner disagrees, and discussed how the references are analogous art in the Final Rejection of July 15, 2010.